IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRIMINAL REVISION NO.1435 OF 2007

DATE OF DECISION: OCTOBER 04, 2007

Mohan Lal Joshi

.....Petitioner

VERSUS

State of Punjab and others

....Respondents

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

PRESENT: Mr. Jagmohan Singh, Sr. Advocate with
Mr. M. P. Gupta, Advocate,
for the petitioner.

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RANJIT SINGH, J.

Aggrieved against the order passed by Judicial Magistrate Ist Class, Jalandhar, acquitting respondent Nos.2 to 7, the petitioner has filed this revision petition.

This case was initiated against the respondents on a complaint filed by Mohan Lal. The offences alleged are under Sections 406, 498-A, 506 IPC etc. and arise out of matrimonial dispute of the daughter of the complainant with Rajesh Sharma, respondent. It is alleged that dowry like jewellery and other articles were given by the complainant, which were entrusted to various respondents as per the details in the complaint. After investigation, trial of the respondents followed, leading to the acquittal, which is now impugned.

This marriage was solemnized on 13.2.1994. The daughter of the complainant had come from Canada for marriage and returned to Canada on

16.3.1994. Her husband Rajesh Sharma joined her in Canada subsequently. Wife did not return to India thereafter for number of years.

The trial Court, on the basis of evidence, found that no list of dowry articles was prepared at the time of marriage, as was admitted by wife, Jiwan Lata (PW4). There was also no reliable evidence to show the entrustment of these dowry articles to the members of family as averred in the complaint. Rather, it is highlighted that the prosecution has tried to show entrustment of specific dowry articles to each member of the family so that no one is left out. This, according to defence, may give an indication of efforts to implicate entire members of the family. This aspect is again required to be viewed in the background that wife Jiwan Lata left for Canada soon after the marriage. Within a short span of a month and three days, it would have been difficult for the family members to mal-treat the newly wedded wife. It is noticed by the court that indication about proper treatment of the wife can be made out from the action of the wife in sponsoring the husband and from the fact that she called the family from Canada about her safe arrival there and remaining in touch with the family. The trial Court is justified in observing that wife would not have been so kind and considerate if she had not been properly treated. The allegation for mal-treating in Canada would also be belied from the fact that no complaint was ever lodged by wife to any authority or police in Canada. In this background, allegation made against the family members-respondents, who are in India, would really be far-fetched. The wife allegedly mal-treated never appeared before the police to record her

statement. The husband and wife had separated in the year 1998 and still no complaint was lodged in Canada. Learned counsel appearing for the petitioner would submit that she had filed an affidavit before the police, which, according to him, could be treated as her statement under Section 161 Cr.P.C. No such submission was ever made before the Court. Even if that be so, it would not make any substantial difference or effect the finding, as the finding is to be based on the evidence led before the Court. It is noticed by the court that the prosecution is mainly supported by the witnesses, who are interested one. Otherwise the allegation of mal-treatment is based on the sole account given by wife Jiwan Lata without any corroboration. A view that it will not be safe to rely upon implicitly on the evidence of Jiwan Lata, is a possible one and even if any other view can be taken, then it is not enough to interfere in the finding of acquittal. She did not file any complaint to any authority in Canada. The submission made by counsel for the petitioner that the Court should have relied upon documents marked and not exhibited can not be accepted. If the prosecution intended to rely upon the documents, which were kept only marked and not exhibited could not be legally relied upon. The submission by the learned counsel for the petitioner that these documents were to be exhibited instead of keeping them as marked may reflect on the laxity on the part of the prosecution, rather then, leaving any reflection on the Court. A mere marking of a document even as an exhibit does not dispense with its proof. In this regard, reference can be made to ***Sait Tarajee Khimchand and others Vs. Satyam and others***, AIR 1971 SC 1865. If the petitioner wanted to reply on these documents as marked, he was bound to prove these. I

accordingly do not find any infirmity in the impugned judgement, which may call for interference in this case.

Dismissed.

October 04,2007 **(RANJIT SINGH)**
khurmi **JUDGE**